

CRI/A/56/79

IN THE HIGH COURT OF LESOTHO

In the Appeal of:

MBALESO MOTSOENE

Appellant

v

R E X

Respondent

REASONS FOR JUDGMENT

Filed by the Honourable Mr Justice F.X. Rooney
on the 11th day of January 1980

The appellant was convicted on the 16th June 1979 of an assault with intent to do grievous bodily harm. He was sentenced to six months imprisonment. I dismissed his appeal against both convictions and sentence on the 30th November 1979. These are my reasons for that decision.

On the 15th February a group of people including the complainant, Matokelo Takatso (PW.1) went to collect firewood at a place indicated by the chief of the village. While they were there, the accused appeared and started shouting at the group whom he evidently considered to be intruders on his land. Evidence was led to the effect that the appellant drew a knife and chased after the complainant while her companions fled. While being pursued, the complainant slipped and fell and the appellant stabbed her twice on the left thigh.

The appellant said in his evidence that the complainant sustained her injuries by falling on some sticks. This testimony was rejected by the trial magistrate.

A defect in the Crown case was the failure to call police evidence of any kind. It must be assumed that the matter was investigated. In his grounds of appeal the appellant alleges that although the Crown evidence stated that a knife was handed over to the police no knife was produced at the trial.

The complainant in cross-examination said that the appellant took a knife to the police station. But, she was not asked the source of her information. Mamahlape Tjeke (P.W.2) said that the appellant stabbed the complainant with a big red knife. Mamolahlehi Tikatiko (P.W.3) also said that she saw the appellant holding a knife. The appellant was not questioned about a knife at all.

Notwithstanding, the magistrate accepted the evidence of the prosecution witnesses as to what occurred. A medical report handed in by consent referred to two small stabwounds on the left thigh, not deep with no vessel injury. The report would have been of more value if it were more illuminating or if the medical officer had been called to explain it. However, it does amount to corroboration of the prosecution evidence that the victim was stabbed. The magistrate was entitled on the evidence before him to find the case against the appellant proved beyond reasonable doubt.

In sending the appellant to imprisonment for six months the magistrate remarked that the appellant had used a knife to stab a woman and that this was a serious offence. I was unable to disagree with him.

F.X. ROONEY
Judge